

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

SHAKIR AASIM VENSON,

Movant,

v.

CIVIL ACTION NO. 3:05-0860
(Criminal No. 3:97-00073)

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM OPINION AND ORDER


This action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted Findings of Fact and recommended that the Court dismiss Movant's Motion for Modification of Sentence under 18 U.S.C. § 3582(c)(2) Pursuant to Amendment 668 filed on October 28, 2005 (Doc. #181) and remove this matter from the Court's docket. The movant has filed an objection to the Magistrate Judge's findings and recommendation.

The Court, having reviewed, de novo, the pleadings and movant's objection, **ADOPTS** the Magistrate Judge's Findings and Recommendation. Movant claims he is entitled to a sentence reduction under 18 U.S.C. § 3582(c)(2) based on the Sentencing Commission's adoption of Amendment 668, relating to an automatic reduction of a base offense level under the Drug Quantity Table for mitigating role adjustments. Movant's request must be denied. First, he did not receive a role adjustment so he cannot fall within Amendment 668. Second, this Amendment is not

applicable retroactively, as noted by the Magistrate Judge. Furthermore, Movant does not benefit from the Appendi and Booker line of cases as they are inapplicable to § 3582(c)(2) motions. Movant's Motion for Modification of Sentence is **DENIED** and this case is **ORDERED** removed from the Court's docket.

The Court **DIRECTS** the Clerk to send a copy of this written Opinion and Order to counsel of record and any unrepresented parties.

ENTER: August 30, 2010



ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE